

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CHRISTENSEN SHIPYARDS, LTD., a  
Washington corporation,

Plaintiff,

v.

ST. PAUL FIRE AND MARINE INSURANCE  
COMPANY, a foreign corporation; and  
NAVIGATORS INSURANCE COMPANY, a  
foreign corporation,

Defendants.

NO. CV6-641-C

DECLARATION OF MICHAEL  
WAMPOLD IN SUPPORT OF  
CHRISTENSEN'S OPPOSITION TO  
NAVIGATORS' OLYMPIC  
STEAMSHIP MOTION

Michael Wampold declares as follows:

1. I was one of the litigation attorneys for defendant Christensen Shipyard Ltd. ("Christensen") in a lawsuit filed in United States Federal District Court in the Southern District of Florida, Cause No. 04-61432 ("the underlying lawsuit"). I make this declaration on the basis of personal knowledge and am competent to testify to the matters herein.

2. Early on in the underlying lawsuit, Christensen's corporate counsel, Philip "Casey" Marshall advised me that Navigators Insurance Company ("Navigators") wanted Christensen to direct all communication to it through St. Paul Fire and Marine Insurance

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OLYMPIC STEAMSHIP MOTION - 1

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10850-027856 122729

**STAFFORD FREY COOPER**

PROFESSIONAL CORPORATION  
601 Union Street, Suite 3100  
Seattle WA 98101.1374  
TEL 206.623.9900 FAX 206.624.6885

1 Company's ("St. Paul") Donna Zeller. It was my understanding that Ms. Zeller had agreed to  
2 convey to Navigators all the information we provided Ms. Zeller (and through Ms. Zeller, both  
3 insurers) to Navigators.

4 3. As directed by Navigators, I kept Christensen's insurers apprised of the  
5 developments and requirements of the underlying litigation through Ms. Zeller. It is my  
6 understanding that Christensen's corporate counsel did the same.

7 4. At no time did Navigators ever instruct me - or, to my knowledge, my client,  
8 Christensen, or its corporate counsel - to disregard the communication protocols that I was  
9 advised Navigators outlined and required. It did not ever ask me to communicate with it directly.  
10 Nor did it ever give me any indication that it was not receiving information concerning the  
11 underlying lawsuit or the underlying lawsuit's developments or requirements.. We continued to  
12 operate in accordance with those protocols until the coverage litigation began.

13 5. Prior to the mediation, I spoke with Donna Zeller about the requirement that the  
14 insurers be physically present at the mediation with full authority to settle. I advised her that the  
15 requirement was set forth in local rule 16.2(E) of the United States District Court for the  
16 Southern District of Florida. Based upon my understanding of Navigators' communication  
17 protocols, it is my belief that I had effectively informed both insurers of this requirement. I had  
18 conveyed the information in the manner required by Navigators.

19 6. Ms. Zeller advised me that she was unable to attend in person due to medical  
20 reasons, so she would send someone else from St. Paul in her stead. Based upon a subsequent  
21 email, it is my understanding that she sent Bruce Wade. *See Dkt. No. 15, Ex. 7 at Ex. 3.*

22 7. Christensen did not settle the case on the day of the mediation. Christensen did  
23 not execute a settlement agreement with the underlying plaintiffs until after its insurers refused to

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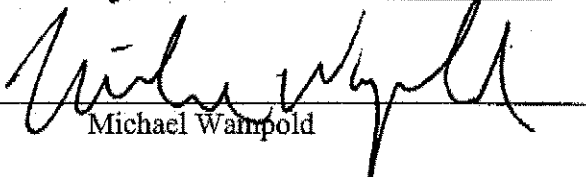
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601 Union Street, Suite 3100  
Seattle WA 98101.1374  
TEL 208.623.9900 FAX 208.624.8855

1 fund any portion of the settlement. Prior to that, Christensen merely agreed to settle the case  
2 provisionally, contingent upon the insurers' agreement to fund the settlement.

3 8. Navigators never advised Christensen, prior to the settlement, that it would not  
4 cover the claims Christensen tendered concerning the underlying lawsuit.

5 **I CERTIFY under penalty of perjury under the laws of the United States and the**  
6 **State of Washington that the foregoing is true and correct.**

7 DATED this 19th day of November, 2006 in Seattle Washington.

8   
9 Michael Wampold

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DECLARATION OF MICHAEL WAMPOLD IN SUPPORT  
OF CHRISTENSEN'S OPPOSITION TO NAVIGATORS'  
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**STAFFORD FREY COOPER**

PROFESSIONAL CORPORATION  
601 Union Street, Suite 3100  
Seattle WA 98101.1374  
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Certificate of Service

I certify that on the date noted below I electronically filed this document entitled DECLARATION OF MICHAEL WAMPOLD IN SUPPORT OF CHRISTENSEN'S OPPOSITION TO NAVIGATORS' OLYMPIC STEAMSHIP MOTION with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons:

Charles C. Huber  
huberC@lanepowell.com  
Lane Powell, PC  
1420 Fifth Avenue, Suite 4100  
Seattle, WA 98101-2338  
(206) 223-7000  
FAX: (206) 223-7107

*Attorneys for Defendant St. Paul Fire  
and Marine Ins. Co.*

Daniel F. Knox, 78278  
dknox@schwabe.com  
Schwabe, Williamson & Wyatt  
1211 SW Fifth, Suite 1500  
Portland, OR 97204-3795  
(503) 222-9981  
FAX: (503) 796-2900

*Attorneys for Defendant Navigators  
Insurance Company*

Bert W. Markovich, 13580  
bmarkovich@schwabe.com  
Schwabe, Williamson & Wyatt  
1420 Fifth Avenue, Suite 3010  
Seattle, WA 98101-2339  
(206) 622-1711  
FAX: (206) 292-0460

*Attorneys for Defendant Navigators  
Insurance Company*

and I certify that I have caused to be served in the manner noted below a copy of the above-listed document to the following non CM/ECF participants:

- ☐ Via Facsimile
- ☐ Via First Class Mail
- ☐ Via Messenger

DATED this 20<sup>th</sup> day of Nov., 2006, at Seattle, Washington.

/s/ J. William Ashbaugh via ECF

DECLARATION OF MICHAEL WAMPOLD IN SUPPORT  
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**STAFFORD FREY COOPER**

PROFESSIONAL CORPORATION  
601 Union Street, Suite 3100  
Seattle WA 98101.1374  
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